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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,193	09/30/2003	Jeyhan Karaoguz	14307US02	5333
23446 7590 06/01/2010 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661				
EXAMINER RYAN, PATRICK A				
ART UNIT		PAPER NUMBER		
2427				
MAIL DATE		DELIVERY MODE		
06/01/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/675,193

Applicant(s)

KARAOGUZ ET AL.

Examiner

PATRICK A. RYAN

Art Unit

2427

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-36.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427

/P. A. R./
Examiner, Art Unit 2427

Continuation of 11, does NOT place the application in condition for allowance because:

Applicant presents, Amendment After Final received May 17, 2010 ("After Final"), Pages 14-23, that the combination of Boylan and Garneau does not disclose or suggest the Claim 1, 7, 13, and 21 limitation of "associating, outside of the home, a plurality of key codes with a corresponding plurality of media files... authorizing communication of one of said plurality of media files corresponding to at least one of said associated plurality of key codes, to the home, said authorizing using said associated plurality of key codes" because (1) "Garneau does not disclose or suggest that the same key code is used to associate with the media (i.e. pay per view programs), is also used for authorizing the communication of the media" (After Final Pages 16-17 and 20-21; with further reference to Garneau Col. 6 Lines 23-59 and Col. 7 Lines 39-54) and (2) "Garneau discloses that the alleged 'authorizing' process requires validation of the subscriber's terminal serial number, prior to verifying the program code stored in the program table 35" (After Final Pages 17 and 21; with further reference to Garneau Col. 8 Lines 1-27). The Examiner respectfully disagrees.

In response to argument (1), it is the Examiner's position that Garneau's "program code" is a portion of an "event request code", where the "event request code" is used by Checking System 24 to, in part, authorize the communication of media (as Garneau describes in Col. 6 Lines 23-32 and Col. 7 Lines 39-48; with further reference to Final Office Action mailed March 15, 2010 ("Office Action") Pages 4-5). Therefore, the Examiner submits that the same "program code" of Garneau is used for authorizing the communication of media. The Examiner additionally notes that the claimed "authorizing" step is based on "at least one of said associated plurality of key codes" such that multiple key codes corresponding to media files are not precluded from the claimed invention.

In response to argument (2), it is the Examiner's position that the claimed "authorizing" step is completed in Garneau when the subscriber receives a password allowing access to the media file (as Garneau described in Col. 8 Lines 15-25; with further reference to Office Action Pages 4-5). The Examiner additionally notes that the claimed "authorizing using said associated plurality of key codes" does not define who or what is performing the "authorizing" or how the entity is "using" the plurality of key codes to complete the authorizing function, such that the teachings of Garneau would be precluded from the claimed invention..

/PAR/